

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SEAN M. MARTIN,

Plaintiff,

v.

JEREMY HEMBREE,

Defendant.

Case No. 2:20-cv-00855-JAM-JDP (PS)

ORDER CONSTRUING PLAINTIFF'S
NOTICE AS A MOTION AND DENYING
PLAINTIFF'S MOTION

ECF No. 32

ORDER DENYING PLAINTIFF'S MOTION
FOR DEFAULT JUDGMENT

ECF No. 23

On February 22, 2021 plaintiff voluntarily dismissed defendant Ryan Mez under Rule 41(a)(1)(A)(i). ECF No. 28. On March 29, 2021, plaintiff filed a notice of request to retract, which the court construes as a motion. ECF No. 32. The motion states: "Plaintiff Sean M. Martin requests that the Court disregard his REQUEST FOR DISMISSAL WITHOUT PREJUDICE FOR DEFENDANT YOLO COUNTY SHERIFF'S DEPUTY, RYAN MEZ. Document 28." *Id.* Plaintiff's motion does not state the grounds for seeking this relief. *See* Fed. R. Civ. P. 7(b). To the extent that plaintiff intended to rely upon Rule 60, none of the grounds for relief are provided in his motion. *See* Fed. R. Civ. P. 60(b). Thus, plaintiff's motion is denied without prejudice.

Relatedly, on February 16, 2021, plaintiff filed a motion for default judgment against defendant Ryan Mez. ECF No. 23. On February 17, 2021, the court ordered plaintiff to set the

1 matter for hearing. ECF No. 24. To date, plaintiff has not set the matter for hearing. Further,
2 plaintiff's motion for default judgment became moot when he dismissed defendant Mez from the
3 case. ECF No. 28. Thus, plaintiff's motion for default judgment is also denied.

4 Accordingly:

- 5 1. Plaintiff's notice is construed as a motion and denied. ECF No. 32.
- 6 2. Defendant Ryan Mez remains voluntarily dismissed. ECF No. 28.
- 7 3. Plaintiff's motion for default judgment is denied. ECF No. 23.

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9 IT IS SO ORDERED.

10 Dated: June 10, 2021

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12 JEREMY D. PETERSON
13 UNITED STATES MAGISTRATE JUDGE
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